

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MATTHEW RAYMOND,

Plaintiff,

v.

TROY MITCHELL, Lieutenant at Auburn Correctional Facility, CHARLES THOMAS, Correction Officer at Auburn Correctional Facility, THOMAS HARTE, Sergeant at Auburn Correctional Facility, THOMAS PHILLIPS, Correction Officer at Auburn Correctional Facility, THOMAS GIANCOLA, Correction Officer at Auburn Correctional Facility, HAROLD D. GRAHAM, Former Superintendent of Auburn Correctional Facility, BRIAN BAUERSFELD, Correction Hearing Officer at Auburn Correctional Facility, BRIAN O'HORA, Correction Officer at Auburn Correctional Facility, AIMEE HOPPINS, R.N., Dr. DEBORAH GEER, and "JOHN DOE", Correction Officer at Auburn Correctional Facility,

Defendants.

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**ATTORNEY  
DECLARATION OF  
PATRICK J. MACKEY**

No. 18-cv-01467

**PATRICK J. MACKEY** hereby declares pursuant to U.S.C. § 1746(2), under penalty of perjury, that the following is true and correct:

1. I am an attorney admitted to practice law before the Courts of the State of New York and the Northern District of New York, and I am engaged in the practice of law with Lipsitz Green Scime Cambria LLP, attorneys for Defendants Troy Mitchell, Charles Thomas, Thomas Harte, Thomas Phillips, Thomas Giancola, Harold D. Graham and Deborah Geer (collectively, the "Defendants").

2. I submit this Declaration in opposition to the motion to quash filed by Plaintiff, Matthew Raymond (“Mr. Raymond”) (Docket No. 115). Through his motion, Mr. Raymond is seeking to quash the Subpoena to Produce Documents that the Defendants served upon the New York State Board of Parole (the “Subpoena”).

3. Mr. Raymond’s motion should be denied because, as more fully explained in the accompanying Memorandum of Law submitted by the Defendants: (i) Mr. Raymond does not have standing to bring the pending motion to quash; and (ii) under the broad scope of discovery permitted under the Federal Rules of Civil Procedure, the records sought through the Subpoena (Mr. Raymond’s parole file) are relevant to this instant matter.

4. Attached hereto as **Exhibit A** is a true and correct copy of the Amended Complaint Mr. Raymond filed in this action.

5. Attached hereto as **Exhibit B** is a true and correct copy of the Police Report dated July 4, 2020, prepared by the Buffalo Police Department. My office obtained a copy of the Police Report by submitting a FOIL request to the Buffalo Police Department. A copy of the Police Report was provided to Mr. Raymond’s counsel during discovery in this matter.

6. Attached hereto as **Exhibit C** is a true and correct copy of the Police Report dated August 25, 2020, prepared by the Town of Tonawanda Police Department. My office obtained a copy of the Police Report by submitting a FOIL request to the Town of Tonawanda Police Department. A copy of the Police Report was provided to Mr. Raymond’s counsel during discovery in this matter.

7. Attached hereto as **Exhibit D** is a true and correct copy of the Police Report dated January 30, 2021, prepared by the Buffalo Police Department. My office obtained a copy of the Police Report by submitting a FOIL request to the Buffalo Police Department. A copy of the Police Report was provided to Mr. Raymond's counsel during discovery in this matter.

8. Attached hereto as **Exhibit E** are relevant portions of the transcript from the deposition of Matthew Raymond conducted on November 5, 2020.

9. Attached hereto as **Exhibit F** is a true and correct copy of the letter dated March 10, 2021, that I received from the Amherst Police Department in response to the FOIL request my office submitted to the Amherst Police Department. The letter provides that the Amherst Police Department will not release any records at this time because there is "an on-going open court case" concerning the arrest of Mr. Raymond.

10. Attached hereto as **Exhibit G** is a true and correct copy of Inmate Information concerning Mr. Raymond during his first incarceration in 2008 under inmate number 08B1365. The document was obtained from the public website <http://nysdocslookup.doccs.ny.gov/>. The Inmate Information provides that Mr. Raymond was convicted for the following felonies in 2008: (i) second degree burglary; and (ii) second degree attempted burglary.

11. Attached hereto as **Exhibit H** is a true and correct copy of Inmate Information concerning Mr. Raymond during his second incarceration in 2015 under inmate number 15B3598. The document was obtained from the public website <http://nysdocslookup.doccs.ny.gov/>. The Inmate Information provides that Mr. Raymond was convicted for third degree burglary in 2015.

12. Attached hereto as **Exhibit I** is a true and correct copy of the employment application that Mr. Raymond prepared and signed when applying for a job with K&S Contractors Supply, Inc. in March 2020. My office obtained a copy of the employment application by serving

a subpoena upon K&S Contractors Supply, Inc. A copy of the employment application was provided to Mr. Raymond's counsel during discovery in this matter.

13. Attached hereto as **Exhibit J** is a true and correct copy of the Pre-Screening Notice and Certification Request for the Work Opportunity Credit that Mr. Raymond prepared and signed when applying for job placement with Construction Personnel Group, Inc. d/b/a Squarefoot Tradesmen. My office obtained a copy of the signed form by serving a subpoena upon Square Foot Staffing, Inc. A copy of the signed form was provided to Mr. Raymond's counsel during discovery in this matter.

Executed on May 10, 2021

*/s/ Patrick J. Mackey*  
Patrick J. Mackey, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that on May 10, 2021, I electronically filed the foregoing **Attorney Declaration of Patrick J. Mackey** dated May 10, 2021, on behalf of Defendants Troy Mitchell, Charles Thomas, Thomas Harte, Thomas Phillips, Thomas Giancola, Harold Graham and Deborah A. Geer, M.D., with the Clerk of the Northern District of New York using its CM/ECF filing system and the document was electronically served upon the following counsels of record:

Katherine R. Rosenfeld, Esq.	<a href="mailto:krosenfeld@ecbalaw.com">krosenfeld@ecbalaw.com</a>
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*/s/ Patrick J. Mackey*  
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Patrick J. Mackey, Esq.